

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:11-CV-168-BO

DAVID PHILLIPS,)
Plaintiff,)
v.) ORDER
UNITED STATES,)
Defendant.)

This matter is before the Court on the Memorandum and Recommendation ("M&R") of United States Magistrate Judge David Daniel regarding Plaintiff's motion to proceed *in forma pauperis* and for frivolity review pursuant to 28 U.S.C. § 1915(e)(2)(B). The Court ADOPTS the M&R and DISMISSES Plaintiff's complaint.

BACKGROUND

According to the M&R, Plaintiff's Complaint lists the acts complained of in this suit as "Lack of investigation of reported bombings against the U.S.A." and "Lack of investigation of torture, kidnapping, theft of music, movies, corporate buildings" and requests relief in the form of "I Billions Dollars." Compl. [DE-1-1] at 2, 4. However, the Complaint is otherwise devoid of any facts or jurisdictional foundations. The Magistrate Judge was unable to discern any factual or jurisdictional basis for Plaintiffs claims against the Defendant. The M&R thus recommended dismissal.

The Plaintiff failed to file objections.

DISCUSSION

The Court adopts the M&R because Plaintiff has failed to object to it and because the M&R is not in plain error.

Under § 1915, a claim proceeding *in forma pauperis* may be dismissed at any time if it is frivolous. § 1915(e)(2)(B)(i). A complaint is frivolous if “it lacks an arguable basis either in law or fact.” Neitzke v. Williams, 490 U.S. 319, 325 (1989). To make a frivolity determination, a court may designate a magistrate judge to submit proposed findings of fact and recommendations. 28 U.S.C. § 636(b)(1)(B). A district court is only required to review an M&R *de novo* if the plaintiff specifically objects to it or in cases of plain error. Id.; Thomas v. Arn, 474 U.S. 140 (1985).

Here, Plaintiff does object to the M&R. The M&R was also not in plain error. The Court thus adopts the M&R.

CONCLUSION

The Court ADOPTS the Magistrate Judge’s recommendations. Although Plaintiff’s motion to proceed *in forma pauperis* is ALLOWED, this matter is DISMISSED.

SO ORDERED, this 23 day of July, 2011.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE